

APR 27 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TELEPHONE: 504-880-4646  
TELEFAX 504-880-4659  
OUR FILE NO.

April 27, 1993

2046-002

**HAND DELIVERED**

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: MM Docket No. 93-51  
FM Proceeding, New Albany, Indiana

Dear Ms. Searcy:

Enclosed is an original and six (6) copies of Motion of Midamerica to Strike Integration Statement of Adams Rib which we request that you accept for filing on behalf of our client, Midamerica Electronics Service, Inc., in the above-referenced proceeding.

Should the Commission have any questions, kindly direct them to the undersigned or Marjorie R. Esman of this office.

Sincerely,

  
Bradford D. Carey

BDC/bgc  
Enclosures  
cc: Peter Boyce, w/encl.

No. of Copies rec'd  
List A B C D E

046

APR 27 1993

*Before the  
Federal Communications Commission  
Washington, D.C. 20554*

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of

MARTHA J. HUBER

ADAMS RIB, INC.

DITA DEVNA DEENT

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)

MM DOCKET NO. 93-51

File No. BPH-911114ME

File No. BPH-911115MA

File No. BPH-911115MC

Under existing policies of the Commission, when an applicant files on form 340 as a non-profit applicant for a construction permit for a commercial allotment, the applicant must supplement the form 340 with the additional information normally elicited by the form 301 commercial application that is not directly elicited by the form 340. It is the responsibility of the applicant choosing this hybrid filing scheme to provide the required information.

The form 301 elicits information regarding the integration commitment, if any, of the applicant. On the other hand, integration of ownership into management has not been considered a factor in hearings to select a non-commercial permittee for the reserved channels.

Adams Rib failed to, or elected not to, set forth any integration commitment in its application or in any amendment filed during the period for amendment as a matter of right. (Official Notice requested). It has waived whatever right it may have had to file an integration statement or commitment.

Adams Rib's *Integration/Diversification Statement* is a blatant attempt at an impermissible upgrading.<sup>1</sup> If Adams Rib is permitted now to introduce for the first time an integration proposal, one of the major thrusts of the Commission's reform of the hearing rules -- that applicants know early, before designation of the

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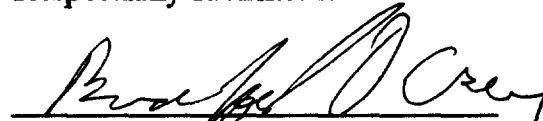
<sup>1</sup>Midamerica notes that there is already pending a motion to dismiss Adams Rib's application and responsive pleadings. Whether the I&D statement was filed by the deadline apparently is also at issue. Midamerica points out, however, that even if filed by the deadline, Adams Rib's I&D is an impermissible upgrade because it did not commit by the end of the period to amend its application as of right to any integration. Therefore, even if Adams Rib is not dismissed and its I&D statement otherwise were acceptable, it must be stricken and integration denied.

applications for hearing -- who the competing applicants are and their respective comparative strengths and weaknesses -- will be thwarted.

The competing applicants made their determinations to pay the hearing fee and then submit notices of appearance based on the competitive situation as it then existed and the Commission's statements that comparative upgrading would not be permitted at this late stage. Adams Rib can not be permitted to now advance for the first time an integration plan.

In view of the foregoing, MIDAMERICA ELECTRONICS SERVICE, INC. URGES THAT UNLESS THE APPLICATION OF ADAMS RIB IS DISMISSED, ITS INTEGRATION PROPOSAL BE STRICKEN.

Respectfully submitted:

  
ASHTON R. HARDY  
BRADFORD D. CAREY  
MARJORIE R. ESMAN  
HARDY AND CAREY

111 Veterans Boulevard, Suite 255  
Metairie, LA 70005  
Telephone: (504) 830-4646  
Counsel for Midamerica Electronics  
Service, Inc.

Dated: April 27, 1993

**EXHIBIT 1**

**TECHNICAL PORTION OF APPLICATION OMITTED**

# ORIGINAL

Federal Communications Commission  
Washington, D. C. 20554

FCC 340

Approved by OMB

3090-0034

Expires 4/30/92

See Page 23 for information  
regarding public burden estimate.

## APPLICATION FOR CONSTRUCTION PERMIT FOR NONCOMMERCIAL EDUCATIONAL BROADCAST STATION

(Carefully read instructions before filing form) Return only form to FCC

For Commission Use Only

File No. **BPE-91115711**

### Section 1 - GENERAL INFORMATION

1. Name of Applicant <b>ADAMS RIB, INC.</b>		
<b>RECEIVED NOV 15 1991</b>		
Street Address or P.O. Box <b>P.O. BOX 1226</b>		
City <b>JEFFERSONVILLE</b>	State <b>IN</b>	Zip Code <b>47131</b>
Telephone No. (include Area Code) <b>(812) 284-1945</b>		

Send notices and communications to the following person at the address below:		
Name <b>GENE A. BECHTEL, ESQ. BECHTEL &amp; COLE CHARTERED</b>		
Street Address or P.O. Box <b>SUITE 250, 1901 L. STREET, N.W.</b>		
City <b>WASHINGTON</b>	State <b>D.C.</b>	Zip Code <b>20036</b>
Telephone No. (include Area Code) <b>(202) 833-4190</b>		

2. This application is for: ☐ AM ☒ FM ☐ TV

(a) Channel No. or Frequency <b>234A 94.7</b>
--

(b) Principal Community	City <b>NEW ALBANY</b>	State <b>IN</b>
-------------------------	---------------------------	--------------------

(c) Check one of the following boxes:

- ☒ Application for NEW station
- ☐ MAJOR change in licensed facilities; call sign: \_\_\_\_\_
- ☐ MINOR change in licensed facilities; call sign: \_\_\_\_\_
- ☐ MAJOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☐ MINOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☐ AMENDMENT to pending application; application file number: \_\_\_\_\_

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section 1 and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application?

☐ Yes ☐ No

If Yes, state:	Call letters	Community of License	
	<b>94.7 MHz</b>	<b>NEW ALBANY</b>	State <b>IN</b>
	<b>BPH</b>	<b>ADAMS RIB, INC.</b>	

Section II - LEGAL QUALIFICATIONS

Name of Applicant

Section II - LEGAL QUALIFICATIONS (Page 2)

PARTIES TO APPLICATION

8. Complete the following Table with respect to all parties to this application:

(NOTE: If the applicant considers that to furnish complete information would pose an unreasonable burden, it may request that the Commission waive the strict terms of this requirement with appropriate justification.)

INSTRUCTIONS: If applicant is a corporation or an unincorporated association with 50 or fewer stockholders, stock subscribers, holders of membership certificate or other ownership interest, fill out all columns, giving the information requested as to all officers, directors and members of governing board. In addition, give the information as to all persons or entities who are the beneficial or record owners of or have the right to vote capital stock, membership or ownership interests or are subscribers to such interests. If the applicant has more than 50 stockholders, stock subscribers or holders of membership certificates or other ownership interests, furnish the information as to officers, directors, members of governing board, and all persons or entities who are the beneficial or record owners of or have the right to vote 1% or more of the capital stock, membership or ownership interests. If applicant is a governmental or public educational agency, board or institution, fill out columns (a), (b), and (c) as to all members of the governing board and chief executive officers.

Name and Residence Address(es)  (a)	Office Held  (b)	Director or Member of Governing Board		% of: Ownership (O) or Voting Stock (VS) or Membership (M)  (d)
		YES	NO	
		(c)		
MARY L. SMITH 2711 HIGHWAY 62 JEFFERSONVILLE, IN 47130	PRESIDENT	X		50% (M)
ANGELIA M. PAIT 4924 EMERICK DRIVE JEFFERSONVILLE, IN 47130	SECRETARY & TREASURER	X		50% (M)



Section II - LEGAL QUALIFICATIONS (Page 3)

9. Does the applicant or any party to this application have, or have they had, any interest in:

(a) a broadcast station, or pending broadcast station application before the Commission?

☒ Yes ☐ No

(b) a broadcast application which has been dismissed with prejudice by the Commission?

☒ Yes ☐ No

(c) a broadcast application which has been denied by the Commission?

☐ Yes ☒ No

(d) a broadcast station, the license of which has been revoked?

☐ Yes ☒ No

(e) a broadcast application in any pending or concluded Commission proceeding which left unresolved character issues against the applicant?

☐ Yes ☒ No

If the answer to any of the questions in (a)-(e) above is Yes, state in an Exhibit the following information:

Exhibit No.  
C

(1) Name of party having interest;

(2) Nature of interest or connection, giving dates;

(3) Call letters of stations or file number of application or docket; and

(4) Location.

### SECTION III - FINANCIAL QUALIFICATIONS

Note: If this application is for a change in an operating facility, DO NOT fill out this Section.

1. Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration? ☐ Yes ☒ No

2. Is this application contingent upon receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision? ☐ Yes ☒ No

**NOTE:** If either Questions 1 or 2 is answered "Yes," your application cannot be granted until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on your part is required. If you rely on funds from a source specified in Question 2, you must advise the F.C.C. when the funds are committed or appropriated. This should be accomplished by letter amendment to your application, in triplicate, signed in the same manner as the original application, and clearly identifying the application to be amended.

3. The applicant certifies, except as noted above, that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without additional funds. ☒ Yes ☐ No

### SECTION IV - PROGRAM SERVICE STATEMENT

Attach as an Exhibit, a brief description, in narrative form, of the planned programming service relating to the issues of public concern facing the proposed service area.

Exhibit No.

D

**NOTE:** No program service statement need be filed where the proposed station's programming would be wholly "instructional" as that type of programming is defined in the instructions to this Section.

### SITE CERTIFICATION

Adams Rib Inc. has reasonable assurance, in good faith, that the site and structure proposed in the engineering portion of this application, as the location of its transmitting antenna, will be available for the applicant's intended purpose. The applicant certifies that it has obtained such reasonable assurance by contacting the owner and person possessing control of the site of the structure.

LYTTLE SMITH, OWNER

Name of Person Contacted

(502)589-4214

Telephone No. of owner

ADAMS RIB, INC.

Mary H. Smith  
Applicant's signature

11-3-91

Date

**SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

1. Does the applicant propose to employ five or more full-time employees?

☐ Yes ☒ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC 396-A).

**SECTION VII - CERTIFICATION**

1. Has or will the applicant comply with the public notice requirements of 47 C.F.R. Section 73.3530?

☒ Yes ☐ No

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. *(See Section 304 of the Communications Act of 1934, as amended.)*

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.65, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.  
U.S. CODE, TITLE 18, SECTION 1001.**

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in

**INSTRUCTIONS.**

Use 8½ x 11 Inch Paper for Inserts

Present 2 Executed Copies to Secretary of  
State, Room 155, State House, Indianapolis,  
Indiana 46204

The recording of a third executed copy with  
the County Recorder is no longer statutorily  
required.

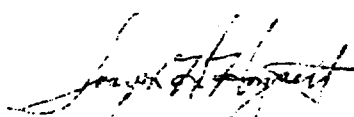
FILING FEE is ~~\$23.00~~ \$30.00

**EXHIBIT A**  
Corporate Form No. 364-1 (Dec.-1980)  
Page One

**ARTICLES OF INCORPORATION  
(Not for Profit)**

Prescribed by Edwin J. Simcox,  
Secretary of State of Indiana

APPROVED  
AND  
FILED



91 OCT  
1980

**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is .....perpetual  
(either "Perpetual", or, if limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Corporation's Resident Agent for service of process is .....MARY L. SMITH, 2711 HIGHWAY 62, JEFFERSONVILLE, IN. 47130  
(Name)

.....2711 HIGHWAY 62.....JEFFERSONVILLE.....INDIANA.....47130  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is .....  
Corner of Chestnut & Walnut Sts. JEFFERSONVILLE  
(Number and Street or Building) (City) (State) (Zip Code)  
(Resident agent and principal office address must be located in Indiana.)

**ARTICLE V**  
**Membership**

A minimum of three (3) persons shall have signed the membership list. (Directors or Trustees or Incorporators may be included in the Membership.)

Section 1. Classes (if any): NONE

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes:

The private property of the incorporators, directors, officers, and members of this corporation shall not be subject to any indebtedness incurred by the corporation.

Section 3. Voting Rights of Classes:

n/a

ARTICLE II (continued)  
Purposes

d. The conduct of education, including the operation of Bible schools and Bible correspondence courses.

e. The ownership and operation of one or more printing plants or publishing houses for the publication and distribution of Christian literature of all types.

f. To own and operate one or more Christian television and/or radio broadcasting stations that engage in any or all forms of Christian Broadcasting activity including, but not limited to television, AM & FM radio, short-wave radio, micro-wave communication, closed circuit television, cable television and subscription broadcasts and to produce, syndicate and distribute radio and television programs.

g. The production and distribution of Christian educational programs on films, tapes, slides, or other audio or visual devices suitable for projection and broadcasting.

h. The encouragement of every means, including the donation of money and equipment which conveys Christian truth.

i. To own and operate one or more Christian Daycare Centers for the purpose of raising funds.

ADVANCEMENT OF EDUCATIONAL PROGRAM

The proposed station will advance an educational program by providing quality noncommercial FM radio programming including educational, public affairs and gospel music to the community of license and vicinity.

The applicant is a nonprofit educational organization whose primary purpose is Christian education and the facilities will be used primarily to serve the educational needs of the community of New Albany, Indiana.

A combination of general educational, instructional, public affairs, light entertainment, entertainment, other and religious programming is proposed. In addition, Adams Rib, Inc. intends to develop educational, ethnic, children's entertainment and nontraditional productions for the local audience. Further, Adams Rib intends to utilize its broadcast to reach the distant learner including the physically handicapped and the socially and culturally disadvantaged learner. Also, Adams Rib intends to offer classes in radio production and news writing and to air the best of these student-developed productions and newscasts over its station. Thus, Adams Rib meets the criteria for grant of a noncommercial educational radio broadcast station, since it intends to utilize the allocation requested in furtherance of its Christian educational objectives while addressing the educational needs of its community of license.



EXHIBIT C

BROADCAST INTERESTS

MARY L. SMITH is an officer and director (25%) of Brightness Ministries, Inc. Brightness owns LPTV station W05BE at Jeffersonville, IN and holds construction permits for: W26AS Clarksville, IN; W08CT New Albany, IN; W20AX Glasgow, KY. Brightness is an applicant for a new noncommercial educational FM station at Great Falls, MT (File No. BPED-89010MZ). Brightness was formally an applicant for new noncommercial educational FM stations at Louisville, KY (Channel 263C2; File No. BPED-880125OU, dismissed pursuant to voluntary settlement); and at Indianapolis, IN (Channel 242A, File No. BPED-880728NG, dismissed pursuant to voluntary settlement). The other officers and directors of Brightness are: John W. Smith Sr. (25%), John W. Smith Jr. (25%), and Darlene Smith (25%). Mary is the husband John Sr., the mother of John Jr., and mother-in-law of Darlene.

MARY L. SMITH is also an officer and director (33 1/3) of Lou Smith Ministries, Inc. It has filed for the following noncommercial educational FM stations: New Washington, IN (File No. ARN-910911MA); Springfield, MO (File No. ARN-910910MB), Fargo, ND (File No. ARN-910911MA); and Columbus, OH (ARN-911104\_\_). Lou Smith Ministries, Inc. was formally an applicant for a new FM station at Fargo, ND (File No. 880728NG, dismissed pursuant to voluntary settlement).

## EXHIBIT D

### PROGRAM SERVICE STATEMENT

The applicant is a not-for-profit corporation. The purpose of the proposal is to establish a New Albany Community Educational Broadcasting Facility. The proposed radio station will allow a responsible segment of the New Albany community to use radio as a means of communication and expression. To this end, the purpose is to make available to local artists, scientists, businessmen, educators, politicians, farmers and people of all kinds, young and old, a medium from which and through which they can express their interests and needs. Special time blocks will be set aside for reflection, during which the community can discuss the direction the cultural life of the city of New Albany is moving. Specifically, the proposed station's goals would include the seeking out of people representing all of the various interests of the New Albany area community and, in addition to providing broadcast time, the training of those who so desire in the preparation of radio programs. The objective is to make the citizens of the New Albany community aware of their potential talent and abilities to communicate through radio and to heighten and strengthen the whole communities sense of common expression through the medium of radio. Thus, we intend that the proposed station be an educational tool, in the sense that it will teach people, and that it be flexible enough to change with the needs of the community in order to become even more useful to the entire New Albany area.

Programming of the proposed station will have several emphasis. The proposed station would assist the citizens of the community by making them aware of the community issues, problems and concerns by means of public affairs coverage. A mainstay of this policy would be responsible reporting of local news.

EXHIBIT D (cont.)

The proposed station would communicate an awareness of the cultural heritage and potential of the New Albany area by means of programming which would explore the history of that heritage and allow expression of cultural potential. To this end, local teachers, historians, pastors, etc., would be sought out and given assistance in the development of broadcasts under staff supervision. Cultural contributions from New Albany minority groups such as blacks, Hispanics, native American indians, and orientals would be emphasised.

An integral part of the programming policy would be the use of volunteers for program preparation, and the training in the use of broadcast materials for people who would not ordinarily have access to such instruction. Thus, station programming would serve to increase the communications skills of many citizens in the New Albany area.

The proposed station would initiate programming intended to further open lines of communication between and among the community and its leaders, and elected officials. Whenever possible community leaders would be presented in formats allowing telephone response from people in the community.

We propose to have daily call in programs whereby people can express their opinions about issues that are important. Including subjects such as the AIDS scare, problems with the economy, local pollution problems, unemployment, etc.

The new station will provide weather forecasts and update local weather conditions as they occur. An emergency power generator will be installed at the studio and at the transmitter in order to remain on the air during electrical storms.

**CERTIFICATE OF SERVICE**

I, Brenda Cherry, a secretary in the law firm of Hardy and Carey, do hereby certify that a copy of the above and foregoing document has been served on counsel for all parties to this proceeding, by mailing a copy of same via U.S. Mail, postage prepaid, this 27th day of April, 1993, addressed to the following:

Honorable Richard L. Sippel \*  
Judge  
Federal Communications Commission  
2000 L Street, N.W., Room 214  
Washington, D.C. 20554

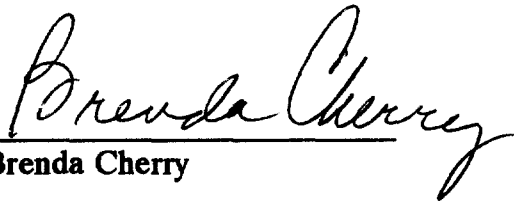
James Shook, Esq.  
Federal Communications Commission  
Hearing Branch  
2025 M Street, N.W., Room 7212  
Washington, D.C. 20554

Morton L. Berfield, Esq.  
Cohen & Berfield  
1129 20th Street, N.W.  
Washington, D.C. 20036  
Counsel for Martha J. Huber

Adams Rib, Inc.  
c/o Lou Smith Ministries, Inc.  
P. O. Box 1226  
Jeffersonville, IN 47131

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4350 N. Fairfax Drive, Suite 900  
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Counsel for Rita Reyna Brent

Donald J. Evans, Esq.  
McFadden, Evans & Sill  
1627 Eye Street, N.W.  
Suite 810  
Washington, D.C. 20006  
Counsel for Staton Communications, Inc.

  
Brenda Cherry

\* By Hand